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11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 RICHARD WHITTAKER,

17 Defendant.

18 Case No. 2:16-cr-00217- APG-EJY

19 **MOTION FOR LEAVE TO FILE  
20 EXHIBITS IN SUPPORT OF  
21 DEFENDANT FOR REVOCATION  
22 HEARING UNDER SEAL  
23 (ECF NO. 106)**

24 Richard Whittaker, through counsel, hereby moves the Court to order Dr. Sharon Jones-  
25 Forrester medical reports and evaluations be filed under seal and remain under seal. LR IA 10-  
26 5. The exhibits contain sensitive medical information, including mental health evaluations. Mr.  
27 Whittaker's confidential and sensitive health information should not be available to the general  
28 public. Therefore, it is respectfully requested that the exhibits be filed under seal. (ECF No.  
29 106).

1  
2 **I. Legal Standard**

3 LR IA 10-5 governs sealed documents, proscribing that:

4 (a) Unless otherwise permitted by statute, rule, or prior court order, papers filed  
5 with the court under seal must be accompanied by a motion for leave to file those  
6 documents under seal. If papers are filed under seal under prior court order, the  
7 papers must state on the first page, directly under the case number: “filed under  
8 seal under court order (ecf no. \_\_\_\_).” all papers filed under seal will remain  
9 sealed until the court either denies the motion to seal or enters an order unsealing  
10 them.

11 In addition, the Ninth Circuit has addressed the standard required to obtain sealing of  
12 judicial records, albeit in a different context. Regarding sealing or redaction of discovery for  
13 non-dispositive filings, the Ninth Circuit recognized that the burden lies with the party seeking  
14 sealing to demonstrate good cause. *Kamakana v. City & Cnty of Honolulu*, 447 F.3d 1172,  
15 1180, 1186 (9th Cir. 2006) (Court affirmed magistrate judge’s decision where party failed to  
16 “demonstrate any specific prejudice or harm.”) (internal citation omitted). Specifically, the  
17 Ninth Circuit focused on the delineation between dispositive filings and non-dispositive filings.  
18 The party seeking redaction or sealing of judicial records for non-dispositive filings must show  
19 good cause – emphasizing the distinction in the required standard as dispositive filings and their  
20 attachments require and non-dispositive filings. *Id.*

21 In line with LR IA 10-5, counsel submits this motion for leave to file the exhibits under  
22 seal. Mr. Whittaker submits that good cause exists for this filing. Specifically, Mr. Whittaker’s  
23 exhibits contain confidential personal medical information, including reference to diagnosis and  
24 medical history. Such sensitive medical information should not be disclosed to the public.  
25 Given the sensitive nature of these matters and other topics discussed in the motion, Mr.  
26 Whittaker submits that he would suffer a specific prejudice or harm by the public filing of the  
exhibits.

## II. Conclusion

Mr. Whittaker respectfully requests Dr. Sharon Jones-Forrester's reports and evaluations be filed under seal due to the sensitive nature of the information contained therein. Specifically, the exhibits contain confidential and sensitive medical information and should be protected. Furthermore, the exhibits include information about mental health evaluations that should not be available to the public. Therefore, the exhibits should be filed under seal.

DATED: May 15, 2024

RENE L. VALLADARES  
Federal Public Defender

/s/Jacquelyn N. Witt

JACQUELYN N. WITT  
Assistant Federal Public Defender  
Attorney for Richard Whittaker

## ORDER

IT IS SO ORDERED.

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ANDREW P. GORDON  
United States District Judge

DATED: May 16, 2024